

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 794 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

HEIRS OF DECD. NANDLAL JETHALAL

Versus

AMRUTLAL JAIRAMBHAI VAGHELA

Appearance:

MR AM MEHTA for Petitioners
None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/12/1999

ORAL JUDGEMENT

#. Heard the learned counsel for the petitioner.

#. This revision application arises from the order of
the District Judge, Jamnagar, dated 3.4.1999 in Civil
Misc. Application No.4 of 1999.

#. The facts of the case are that Civil Misc. Application is filed by heirs of late Nandlal Jethalal Shah to get an order that the Regular Civil Appeal No.145 of 1995 and Regular Civil Appeal No.53 of 1997 be ordered to be heard and disposed of by one and the same judge. This application has been opposed by the other side. The other side, the respondent No.1, is the landlord of the suit premises. He filed two suits being Regular Civil Suit No.27 of 1990 and 28 of 1999 against the predecessor of petitioner and respondent No.2.

#. The learned counsel for the petitioner submits that both these suits were filed in two different courts. However, in both the suits, decree of eviction came to be passed in favour of respondent No.1. The learned counsel for the petitioner submits that in both the suits, a decree of eviction has been passed on the ground of reasonable and bonafide necessity of suit premises. The petitioner filed Regular Civil Appeal No.145/9 which is pending in the District Court, Jamnagar. The respondent No.2 filed Regular Civil Appeal No.53 of 1997 which is pending before the Extra Assistant Judge, Jamnagar. This application has been filed by petitioner for hearing of these two appeals by the same court on the ground that in both these appeals, the facts and law are same and one of the parties is also common. The learned counsel for the petitioner further submits that in case these two appeals are heard by one court, how it will cause any prejudice to respondent No.1 or No.2. It is a case where in both the suits, decree has been passed on the ground of bonafide necessity and in such matters, the question of hardship is also relevant and both the matters be before one court, so it may be convenient for it to decide it more effectively.

#. I have given my thoughtful considerations to the submissions made by learned counsel for the petitioner as well as gone through the order of the learned trial court.

#. This civil revision application has not been opposed by the respondents. I fail to see what prejudice could have been caused to the other side in case both these appeals are ordered to be heard by one and the same court. I do not find any justification in the approach of the learned District Judge not to grant a just and reasonable prayer made by petitioners. This court cannot be oblivious of the fact that the suits have been decreed by the learned trial court for eviction on the ground of reasonable and bonafide necessity of the landlord and if all the appeals are heard together certainly it will be

convenient to the court to decide larger issue of compared hardship, etc. It is true that suits were not consolidated, but the petitioner is not praying for consolidation of appeals. He is praying that those two appeals be heard by one court. The grounds which are considered by the learned District Judge to decline grant of relief to the petitioner are wholly irrelevant. The substance of the matter is that the landlord is common and he got the decree against two tenants on the ground of reasonable and bonafide necessity and in case both the appeals are heard together it will make it easier for the court to decide the matter effectively. The landlord is opposing this application in which opposition I do not find any merits. Similarly, opposing of this application by the other tenant is also of no substance. It is the court who has to consider the larger interest of the litigants and if the litigant desires that these two appeals are to be heard by one court, normal course should have been to grant such reasonable prayer and not to reject the same. If these two appeals are heard by one court, I fail to see how it will in any manner put the court in inconvenience. The petitioner wants these two appeals to be heard by one court so that at the time of hearing the court may have both the matters before it and be in a better position to appreciate the issue of reasonable and bonafide necessity of the landlord for the suit premises. Otherwise also, such matters are to be taken up by one court so that there may not be any possibility of different approaches in the same matter.

#. In the result, this civil revision application succeeds and the same is allowed and the order dated 3.4.99 of the District Judge, Jamnagar, in Civil Misc. Application is quashed and set aside and the learned District Judge is directed to assign both the appeals to one court. These two appeals are of the year 1995 and 1997. The court to which these appeals are assigned are directed to dispose of expeditiously the same say within six months from the date of assignment of the same to it. Rule is made absolute in aforesaid terms. No order as to costs.

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[sunil]